

AMENDMENT TO THE DRAWINGS

Please replace the drawing sheet showing FIG. 11 with the newly-submitted replacement sheet attached herewith. Please note that the replacement sheet corrects the spelling of “Link Status” throughout the figure.

REMARKS

In the foregoing amendments, claims 17, 18, 27, 28, 31-33, 35, 36, and 47 are amended. Also, claims 1-15 are canceled without prejudice, disclaimer, or waiver; and claims 49-63 are added. Claims 16-63 are now pending in the present application.

I. Response to 35 U.S.C. §112, Second Paragraph Rejection

The Office Action rejected claims 2, 4, 5, 36, and 47 under 35 U.S.C. §112, second paragraph, as allegedly failing to particular point out or distinctly claim the invention. Claims 2, 4, and 5 have been canceled by amendment herein, and therefore the rejection of these claims is moot. In response to the rejection of claims 36 and 47, these claims have been amended accordingly and are believed to be clear and definite. Withdrawal of the 35 U.S.C. §112, second paragraph rejection is therefore respectfully requested.

Applicants wish to clarify that the foregoing amendments have been made for the purpose of better defining the subject matter of the present application. The amendments have been made as a matter of form to make the claims more readable and have not been made for reasons related to patentability.

II. Response to 35 U.S.C. §102 Rejection

Claims 1-6, 13, 14, 16-20, 22-29, 32, 33, and 35-42 stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by *Rakib et al.* (U.S. Patent No. 6,889,385). Since claims 1-6, 13, and 14 have been canceled, the rejection of these claims is rendered moot. Concerning the remaining claims, Applicants respectfully traverse the rejection on the grounds that *Rakib et al.* fails to disclose each and every element of the claims.

A. Claim 16-26

Independent claim 16 is reproduced below:

16. A method for enabling a receiver in a digital subscriber network to request services provided by the digital subscriber network, the method comprising the steps of:

receiving a dynamic network information table at the receiver, the dynamic network information table including network information from at least one upstream device; and

transmitting a request for a service, the requested service including at least a portion of the information included in the dynamic network information table.

(Emphasis added)

Rakib et al. fails to disclose the above-highlighted features of claim 16. For example, claim 16 recites *receiving a dynamic network information table at the receiver*. The Office Action seems to suggest that the “menu” (col. 9, line 52) of *Rakib et al.* relates to the dynamic network information table as claimed. Applicants disagree with this assessment of *Rakib et al.* In contrast to claim 16, it appears that the menu, *arguendo*, is merely a menu presented to users of video programs, multimedia files, telephony services, wideband Internet access, or other service. This menu is not a table of network *information*, as claimed, particularly *dynamic network information*. Therefore, *Rakib et al.* fails to teach a dynamic network information table or a step of receiving such a table at a receiver.

More specifically, claim 16 defines the dynamic network information table as *including network information from at least one upstream device*. Clearly, the menu of *Rakib et al.* does not include network information from an upstream device. Instead, as mentioned above, the menu, *arguendo*, is presented to users of video programs, multimedia files, telephony services, wideband Internet access, or other services. *Rakib et al.* appears to be silent concerning a table including *network information* from an upstream device.

Furthermore, claim 16 recites transmitting a request for a service, where the requested service includes *at least a portion of the information included in the dynamic network information table*. Again, *Rakib et al.* fails to disclose such a feature.

For at least these reasons, it is believed that claim 16 is allowable over *Rakib et al.* Also, claims 17-26 are believed to be allowable for at least the reason that these claims depend directly or indirectly from allowable independent claim 16.

B. Claim 27-34

Independent claim 27 is reproduced below:

27. A method for providing a receiver in a digital subscriber network with services provided by the digital subscriber network, the method comprising the steps of:

receiving from a receiver a request for a service, ***the request including network information related to at least one characteristic of the digital subscriber network;***

processing the request for the service using the received network information;

and

providing the requested service to the receiver.

(Emphasis added)

Rakib et al. fails to disclose the above-highlighted features of claim 27. Particularly, claim 27 includes receiving a request for a service, where the request includes ***network information related to at least one characteristic of the digital subscriber network***. *Rakib et al.* fails to teach a service request that includes network information, specifically ***network information related to at least one characteristic of the digital subscriber network***. Furthermore, claim 27 recites the step of ***processing the request for the service using the received network information***. *Rakib et al.* fails to teach network information, as mentioned above, and further fails to process a request using network information, as claimed in claim 27.

For at least these reasons, it is believed that claim 27 is allowable over *Rakib et al.* Claims 28-34 are believed to be allowable for at least the reason that they depend directly or indirectly from allowable independent claim 27.

C. Claims 35-48

Independent claim 35 is reproduced below:

35. An apparatus in a digital network coupled to a first communication link and a second communication link, the apparatus comprising:

an input port adapted to receive a transport stream through a first communication link;

a processor in communication with the input port, ***the processor adapted to determine network information related to the received transport stream***; and

a transmitter in communication with the processor, ***the transmitter adapted to transmit the network information through the second communication link***.

(Emphasis added)

Rakib et al. fails to teach the above-highlighted features of claim 35. For instance, claim 35 includes a processor that is ***adapted to determine network information related to a received transport stream***. *Rakib et al.* fails to teach a device that is adapted to ***determine network information*** as claimed. *Rakib et al.* appears to be silent regarding the aspect of information about the network, and more particularly determining network information. *Rakib et al.* also fails to disclose a transmitter that is ***adapted to transmit this network information through a second communication link***. Not only does claim 35 include a device that can determine network information, but it further includes a transmitter adapted to transmit this network information. *Rakib et al.* fails to disclose these features of claim 35.

For at least these reasons, it is believed that claim 35 is allowable over *Rakib et al.* Also, claims 36-48 are believed to be allowable for at least the reason that they depend directly or indirectly from claim 35.

III. Response to 35 U.S.C. §103 Rejection

Claims 12, 21, 30, 31, and 34 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Rakib et al.* in view of *Addington* (U.S. Patent No. 6,928,656). Claims 7-11 and 43-47 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Rakib et al.* in view of *Nabakht et al.* (U.S. Patent No. 6,813,639). Also, claims 15 and 48 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable

over *Rakib et al.* in view of *Nakamura et al.* (U.S. Patent No. 5,913,039). Applicant respectfully traverses these rejections for the following reasons.

As set forth in MPEP 706.02(j), three basic criteria must be met to establish a *prima facie* case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. *Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.* (Emphasis added)

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). To establish *prima facie* obviousness of a claimed invention, all the claim limitation must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." Applicants assert that the references when combined fail to teach or suggest every feature of the claims.

As discussed above, *Rakib et al.* fails to disclose independent claims 16, 27, and 35. Moreover, *Addington*, *Nobakht et al.*, and *Nakamura et al.* fail to overcome the above-noted deficiencies of *Rakib et al.* Applicants therefore contend that the claims are patentable over the cited combination of references.

With respect to claim 16, *Addington* fails to teach or suggest, in a method for enabling a receiver in a digital subscriber network to request services provided by the digital subscriber network, ***receiving a dynamic network information table at the receiver, the dynamic network information table including network information from at least one upstream device***, as claimed. Instead, *Addington* appears to teach, *arguendo*, the transport of IP data, but fails to teach or suggest a dynamic network information table that includes network information from an upstream device. Also, *Addington* fails to teach or suggest a service request that includes ***at least a portion of the information included in the dynamic network information table***.

With respect to claim 27, *Nobakht et al.* fails to teach or suggest a request for a service, where the request includes ***network information related to at least one characteristic of the digital subscriber network***. Also *Nobakht et al.* fails to teach or suggest ***processing the request for the service using the received network information***. Instead, *Nabakht et al.* appears to teach a channel-based Internet access network that allows connection to an Internet site without typing the Internet address URL.

With respect to claim 35, *Nakamura et al.* fails to teach or suggest a ***processor adapted to determine network information related to the received transport stream***, and a ***transmitter adapted to transmit the network information through a second communication link***. Instead, *Nakamura et al.* appears to teach transmission schedule tables and reproduction schedule tables, but fails to overcome the deficiencies of *Rakib et al.* as mentioned above.

The Office Action states that it would have been well known in the art that if a user selects an interest group from a table that is presented, then a device would have to respond to a request and provide the interest group of channels to the user in another transport stream. Applicants traverse this statement because the statement is not capable of instant and unquestionable demonstration as being well known and does not include specific factual findings predicated on sound technical and scientific reasoning. Basis for such reasoning must be set forth explicitly. Also, in context of the claims, the subject matter alleged to be well known is too complex for a reasonably skilled person to consider it to be well known to such a point that no additional evidence is needed.

IV. New Claims

Claims 49-63 have been newly added to further define and/or clarify the scope of the invention. Independent claim 49 is directed to a method for propagating network information in a digital broadband delivery system. The method comprises receiving in a first device a transport stream from an upstream device, the transport stream including network information related to at least one characteristic of the digital broadband delivery system. Also, the method includes inserting the network information in a packet of the transport stream and transmitting the transport stream to a downstream device. The

combination of cited references fails to teach or suggest each and every aspect of this claim. Therefore, Applicants assert that claim 49 is allowable over the cited references. Also, claims 50-63 are believed to be allowable for at least the reason that they depend directly or indirectly from allowable independent claim 49.

V. References Made of Record

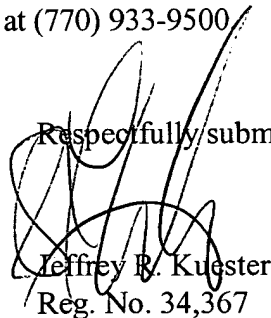
The references made of record have been considered, but are not believed to affect the patentability of the presently pending claims.

CONCLUSION

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known for at least the specific and particular reason that the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions.

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 16-63 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned at (770) 933-9500.

Respectfully submitted,



Jeffrey R. Kuester
Reg. No. 34,367

**THOMAS, KAYDEN,
HORSTEMEYER & RISLEY, L.L.P.**
Suite 1750
100 Galleria Parkway N.W.
Atlanta, Georgia 30339
(770) 933-9500